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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID PAUL FREDIANI,

Petitioner - Appellant,

v.

MICHAEL MARTEL, Warden,

Respondent - Appellee.

No. 06-56149

D.C. No. CV-05-02163-IEG

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Southern District of California  
Irma E. Gonzalez, Chief District Judge, Presiding

Submitted February 18, 2009<sup>\*\*</sup>

Before: BEEZER, FERNANDEZ and W. FLETCHER, Circuit Judges.

California state prisoner David Paul Frediani appeals from the district court's judgment denying his 28 U.S.C. § 2254 petition, challenging his jury-trial

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

conviction for first degree murder. We have jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253, and we affirm.

Frediani contends that trial counsel was ineffective because counsel failed to investigate the possibility that Frediani was framed by DNA evidence or that there was a defect in the chain of custody of the DNA evidence. We conclude that the state court's decision rejecting these claims was not contrary to, or an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d); *see also*. *Strickland v. Washington*, 466 US 668, 687 (1984).

**AFFIRMED.**